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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/591,909	09/07/2006	Florian Lang	MERCK-3231	3411
23599 7590 08/13/2007 MILLEN, WHITE, ZELANO & BRANIGAN, P.C. 2200 CLARENDON BLVD. SUITE 1400 ARLINGTON, VA 22201			EXAMINER	
			WEDDINGTON, KEVIN E	
			ART UNIT	PAPER NUMBER
			1614	
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			08/13/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

1) Responsive to communication(s) filed on <u>07 September 2006</u> . 2a) This action is FINAL . 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) <u>1-15</u> is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) is/are allowed. 6) Claim(s) is/are rejected. 7) Claim(s) is/are objected to. 8) Claim(s) <u>1-15</u> are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on <u>07 September 2006</u> is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.		Application No.	Applicant(s)					
Newin E. Weddington 1614	•	10/591,909	LANG, FLORIAN					
- The MAILING DATE of this communication appears on the cover sheet with the correspondence address → Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. Seaecisco file many be existed under the provided of the provided under the pro	Office Action Summary	Examiner	Art Unit					
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WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions time may be available under the provision of 3° CFR 1.38(a). In no event, however, may a reply be timely filled after SIX (8) MCNTHS from the mailing date of this communication of 15° CFR 1.38(a). In no event, however, may a reply be timely filled after SIX (8) MCNTHS from the mailing date of this communication of 15° CFR 1.38(a). The mailing date of this communication of 15° CFR 1.38(a). Any reply received by the 00° CFR 1.79(b). Status 1 ∑ Responsive to communication(s) filled on 07 September 2006. 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final. 3 ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4 ∑ Claim(s)15′ Is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5 ☐ Claim(s) is/are rejected. 7 ☐ Claim(s) is/are rejected to. 8 ∑ Claim(s) is/are rejected to. 8 ∑ Claim(s) is/are rejected to. 8 ∑ Claim(s) is/are rejected to by the Examiner. 10) ☐ The specification is objected to by the Examiner. 4 D The specification is objected to by the Examiner. Application Papers 9 ☐ The specification is objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11 ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12 ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). 3 ☐ All b) ☐ Some * c) ☐ None of: 1.☐ Certified copies of the priority documents have been received in Application No 2.☐ Certified copies of the priority documen		V IC CET TO EVDIDE 4	MONTU(S) OF THIRTY (30) DAYS					
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DETAILED ACTION

Applicant's preliminary amendment and drawings filed September 7, 2006 have been received and entered.

Due to the complex nature of the claims, no request for an oral election is being made. Please see MPEP 812.01.

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- Claims 1-8, 10 and 11 are drawn to a method for altering insulin secretion comprising contacting a pancreatic islet cell expressing SGK1 with a substance that modulates SGK1, classified in class 514, subclass 248.
- II. Claim 9 is drawn to a method for reducing glucocorticoid induced diabetes mellitus type-2 in a subject in need of such a treatment by modulating the activity of SGK1 in pancreatic islet cells, classified in class 514, subclass 248.
- III. Claims 12 and 13 are drawn to a method for determining the progression, regression or onset of a disease by measuring the expression of SGK1 comprising taking a sample from the diseased individual, classified in class 435, various subclasses.
- IV. Claim 14 is drawn to a pharmaceutical composition comprising an SGK1 inhibiting agent together with a pharmaceutically effective carrier, excipient or diluent, classified in class 514, subclass 248.

V. Claim 15 is drawn to "use of" SGK1 inhibitors selected from the listed compounds having the general formula I or II for the manufacture of a medicament for the treatment of disorders caused by impaired insulin secretion, classified in class 514, subclass 248.

The inventions are distinct, each from the other because of the following reasons:

Inventions IV and I are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product. See MPEP § 806.05(h). In the instant case, the product as claimed can be used in a materially different process of using that product.

The five inventions are independent and distinct, each from the other as they have a separate status in the art as shown by their different and separate subject matter for inventive effort. Further, a reference, which anticipates any one of the above inventions, would neither anticipate nor make obvious of the other inventions. Each such invention is capable of supporting is own patent. For these reasons, the restriction requirement is proper.

To be complete, applicant's response must include a provisional election even though the requirement may be traverse.

The applicant is required to elect a single invention for examination purposes.

The examiner has required restriction between product and process claims.

Where applicant elects claims directed to the product, and the product claims are

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subsequently found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will be considered for rejoinder. <u>All</u> claims directed to a nonelected process invention must require all the limitations of an allowable product claim for that process invention to be rejoined.

In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103 and 112. Until all claims to the elected product are found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained. Withdrawn process claims that are not commensurate in scope with an allowable product claim will not be rejoined. See MPEP § 821.04(b). Additionally, in order to retain the right to rejoinder in accordance with the above policy, applicant is advised that the process claims should be amended during prosecution to require the limitations of the product claims. Failure to do so may result in a loss of the right to rejoinder. Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin E. Weddington whose telephone number is (571)272-0587. The examiner can normally be reached on 12:30 pm-9:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ardin Marschel can be reached on (571)272-0718. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Kevin E. Weddingt Primary Examiner Art Unit 1614

K. Weddington August 6, 2007